

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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In the Matter of )

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYDeveloping a Unified Intercarrier  
Compensation Regime )

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CC Docket No. 01-92

**WORLDCOM REPLY COMMENTS**

Initial comments filed in this proceeding reflect, to a certain extent, the accumulation of entrenched interests in various particulars of the status quo. While a number of commenters recognize the inherent and unambiguous superiority of a unified intercarrier compensation regime over the current hodgepodge, some parties advocate partial reform or no reform at all. But it is irrefutable that the perpetuation of disparate and uneconomic intercarrier charges will frustrate the efficient evolution of an interconnected "network of networks." Instead of focusing on providing innovative and advanced services to end users, carriers may pursue supra-competitive returns that may exist only because of irrational regulatory disparities. Moreover, irrational interconnection pricing will harm consumers even if arbitrage does not occur, by producing inefficient product pricing. Insofar as the Commission believes in and supports the convergence of and competition among various technologies and platforms, the only responsible policy is to establish a unified, technology-neutral regime.

That parties can still raise alleged universal service concerns as an argument to maintain existing irrational and discriminatory disparities in the terms and conditions under which common carriers interconnect to create the public switched telephone

network, provides no reason for inaction. The Act and robust competition plainly require the removal of implicit subsidies from intercarrier charges and their replacement with specific and predictable universal service mechanisms. The answer to universal service concerns is not inaction, but simply compliance with the statutory mandate

In these reply comments, WorldCom, Inc. (WorldCom) reiterates its support for the establishment of a unified regime for interconnection and intercarrier compensation. We also answer the baseless charge that “virtual” NXX codes amount to a fraudulent use of numbering resources. In addition, we dispute that there is any need for detailed rules to govern the circumstances in which interconnecting carriers should establish multiple points of interconnection (POIs). Finally, we urge the Commission not to be distracted from the task of establishing a unified intercarrier compensation regime, by requests to extend dysfunctional features of the current system to CMRS-IXC interconnection.

**I. Initial comments show widespread support for a unified intercarrier compensation regime.**

Parties from virtually every segment of the industry have voiced their support for a unified intercarrier compensation regime. Indeed, one might reasonably think that a proposition on which AOL,<sup>1</sup> AT&T,<sup>2</sup> BellSouth,<sup>3</sup> Global NAPs,<sup>4</sup> Qwest,<sup>5</sup> WorldCom, and numerous other parties agree, is likely to constitute sound policy – any policy that created an arbitrage opportunity would probably affect this array of varied interests differently. That these parties all support a unified regime is powerful evidence that such

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<sup>1</sup> AOL Comments at 1.

<sup>2</sup> AT&T Comments at 1.

<sup>3</sup> BellSouth Comments at 2,

<sup>4</sup> Global NAPs Comments at 1

<sup>5</sup> Qwest Comments at 3.

a regime is the optimal way to eliminate arbitrage opportunities that arise solely from regulatory failures.

This alignment of these disparate interests plainly reflects elementary principles of economics and public policy. As AOL states, “there is no sound economic or policy reason to distinguish for carrier compensation purposes between traffic going to the Internet or anywhere else. . . . [ ] The clear goal is economic, cost-based pricing for all telecommunications traffic.”<sup>6</sup> Indeed, the Commission’s decision in 1996 to perpetuate an arbitrary distinction between “transport and termination” of local traffic, and access charges,<sup>7</sup> is undoubtedly at the root of a substantial amount of “regulatory arbitrage.”

Arbitrage is one symptom of the underlying problem – the setting of inefficient prices by regulators. Replacement of the existing system with a unified regime will send efficient pricing signals to the market and, as a consequence, eliminate regulatory arbitrage. This will also eliminate any costs associated with arbitrage activities, and thus provide additional benefits to consumers. But it is critical that the Commission treat the disease, the inefficient setting of prices by regulators, and not the symptom.

Some commenters that support a unified regime, such as AT&T, criticize bill-and-keep.\* But from WorldCom’s perspective, there is little theoretical difference between a uniform regime in which the intercarrier compensation rate equals zero, or a uniform regime in which that rate is set very low to reflect the long-run incremental costs of the most efficient providers. Either approach would allow the market for end user services to send appropriate pricing signals to consumers. Either approach would

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<sup>6</sup> AOL Comments at 3

<sup>7</sup> In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, *First Report and Order* (rel. August 8, 1996), ¶ 1033.

<sup>8</sup> *See, e.g.,* AT&T Comments at 21 *et. seq.*

eliminate arbitrage opportunities by denying carriers the opportunity to receive or avoid supra-competitive intercarrier charges by pursuing particular groups of customers or by configuring their networks in certain ways. Either approach would drive carriers to focus their efforts on providing value-added services to end user customers, and not on finding new ways to take advantage of regulatory disparities that do not reflect real-world cost differences.

However, as WorldCom, AT&T, and several other parties pointed out, the Act does not allow the Commission to mandate bill-and-keep for the exchange of local traffic when that traffic is not roughly balanced.’ Accordingly, WorldCom again urges the Commission to pursue reform that would result in a uniform rate for call termination for all minutes exchanged. Such reform is the only way to prevent “regulatory arbitrage.”

Like WorldCom, numerous parties recognize that a “piecemeal” approach to reform would only exacerbate existing inefficiencies and would prevent industry from achieving the efficiency gains made possible by uniformity.” However, some parties maintain that partial reform would somehow promote the public interest.<sup>11</sup> In fact, it would only promote their private interest of eliminating reciprocal compensation expenses while at the same time maintaining access revenues. The Commission should reject these transparently self-interested arguments out of hand. Until a “minute is a minute,” it is certain that arbitrage will flourish.

According to some parties, replacement of access charges with a bill-and-keep regime or a long-run incremental cost regime is too difficult and would require

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<sup>9</sup> *Id.* at 36.

<sup>10</sup> *See, e.g.*, Global NAPs Comments at 10: “the Commission should strongly resist the idea that progress can be made here by half-measures.”

significant changes to universal service funding. If this is in fact the case, such changes are mandated by the Act itself, and the need for such changes to support a uniform, competitively neutral intercarrier compensation regime simply reflects Congress' wisdom in requiring that universal service be funded by explicit mechanisms, and not by subsidies implicit in intercarrier charges.<sup>12</sup>

## **II. Virtual NXX codes do not constitute a fraudulent use of numbering resources.**

As new entrants to the local exchange market, competitive LECs were forced to conform their networks and products to a rate center architecture that they had no role in designing. Despite the increasing irrelevance of distance to the cost of providing service, competitive LECs had no choice but to acquire discrete NXX codes for each rate area in which they planned to offer service. Moreover, as a practical matter, competitive LECs were also forced to conform to the local calling areas established by the incumbents.<sup>13</sup> Competitive LECs attempted to make the best of a bad situation by offering innovative calling services, using so-called “virtual” NXX codes, in order that end users would not be forced to establish redundant connections in a host of rate areas that are little more than a legacy of monopoly networks.

Yet according to Verizon, “[s]ome LECs are misusing telephone numbers to make toll calls look like direct dial local calls. This is not merely inefficient and another case

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<sup>11</sup> *See, e.g.*, Verizon Comments at 4 (advocating end to reciprocal compensation payments) and at 18 (“at this point it is far from clear that the public would benefit from **an** elimination of the access charge regime”).

<sup>12</sup> 47 U.S.C. § 254(e). *See, e.g., Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393,425 (5<sup>th</sup> Cir. 1999).

<sup>13</sup> The use of inconsistent rate areas or calling areas can produce anomalous call rating and billing results that are potentially confusing to customers and costly to competitive carriers.

of regulatory arbitrage; such fraudulent misuse of numbers effectively steals service from other carriers.’’<sup>14</sup> There is no basis in law or policy for this allegation.

Incumbent LECs have long offered foreign exchange services. When a competitive LEC offers a similar service, it cannot be the case that it becomes a “fraudulent misuse” of telephone numbers. Such a result would not be competitively neutral and would give incumbent LECs a significant and undeserved advantage in competing for customers, such as Internet service providers, who require end users located in a host of rate areas to reach them by placing “local” calls. The weakness of Verizon’s argument is demonstrated by a re-examination of the example relied upon by Verizon of Brooks Fiber in Maine.

Verizon’s comments suggest that there was something inherently wrong with the service offered by Brooks, and in particular with the fact that Brooks had not established physical facilities in every rate area from which it had assigned telephone numbers to its customers. Verizon fails to mention that it had voluntarily agreed to **an** interconnection agreement that gave Brooks the right to establish a single point of interconnection for the entire state of Maine. Nor does Verizon mention that it voluntarily agreed that Brooks could establish a single routing point for the entire state Maine, and that Brooks was not obligated to have a routing point for each rate area in which it established an NXX code. Nor does Verizon mention that the Maine Public Utilities Commission approved the Brooks/Verizon interconnection agreement as consistent with the Act.

In fact, in addressing the Brooks service, the Maine commission was motivated primarily by a desire to recover sufficient NXX codes to forestall NPA relief. The Maine commission never adequately examined or addressed the public policy justifications for

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<sup>14</sup> **Verizon** Comments at 4.

the use of virtual NXX codes. Other state commissions that have examined this question have found that such services are lawful and provide significant public interest benefits.<sup>15</sup>

While in the past, the use of virtual NXX codes may have placed a disproportionate strain on numbering resources, the imminent national rollout of thousands-block pooling should largely mitigate this concern.<sup>16</sup> In the near future, LECs will not have to dedicate an entire NXX code to these services, but will instead be able to obtain a block of one thousand or fewer numbers for each rate area. With number conservation concerns mitigated, there is no imaginable justification for accepting Verizon's recommendation that competitive LECs be prohibited from offering these services. While carriers may have to resolve facility and transport questions, it is WorldCom's experience that those questions are best addressed in interconnection agreements, not by mandatory rules.

### **III. The Commission should not impose detailed interconnection rules regarding when additional POIs are needed.**

In its initial comments SBC recommends that the Commission impose detailed requirements to govern the circumstances in which interconnecting carriers must establish additional POIs and trunking arrangements.<sup>17</sup> It is WorldCom's experience that such rules are unnecessary as long as the only carriers with an incentive to degrade network interconnection, the incumbent LECs, are not given unilateral control over these decisions. The Act and the Commission's rules, which allow competitive LECs to

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<sup>15</sup> For example, California has explicitly approved these services, and no state except for Maine has prohibited them.

<sup>16</sup> See Public Notice DA 01-2419 (rel. October 17, 2001), seeking comment on the National Thousands-Block Number Pooling Rollout Schedule.

<sup>17</sup> SBC Comments at 27.

request either a single or multiple POIs, provide an adequate default regime. Competitive LECs have every incentive to maintain a high quality of interconnection, since their customers will most often be placing calls to customers of the incumbent or another carrier, while calls by the incumbent's customers will most often remain on the incumbent's network.

In fact, WorldCom has readily agreed to establish additional POIs and dedicated end office trunk groups with SBC and other incumbent LECs, where such arrangements are beneficial. WorldCom does not believe, however, that there is some optimal rule that could govern these decisions in all circumstances. Each carrier has a slightly different mix of customers. Those customers may have different calling patterns and busy hours. The size of the local calling area may vary from as small as ten miles across, to more than fifty. Instead of trying to establish some universal rule to address these variations, the Commission should simply maintain the existing framework, which allows competitive LECs to determine the number and location of POIs. Alternatively, the Commission could consider changing its rules in a manner that would create a rebuttable presumption that a CLEC may obtain interconnection at a single POI in each LATA. The incumbent could overcome this presumption by making a showing to the state commission, as part of the arbitration process, that the single POI would disproportionately burden the incumbent's transport network. The state commission could then consider the local circumstances and determine how best to resolve the dispute.

**IV. The Commission should not extend existing access regulations to CMRS providers.**

Voicestream and other CMRS providers have suggested that the Commission should extend to wireless providers, the permissive tariffing regime that it has adopted for providers of competitive access services.<sup>18</sup> This docket is not the appropriate place to consider these requests. Moreover, there is no showing that the public interest would benefit from this proposal.

The entire point of this proceeding is to determine whether to replace the existing hodgepodge of intercarrier compensation mechanisms with a single unified mechanism. WorldCom and a broad cross-section of the industry support such an approach. Voicestream proposes instead that the Commission take one of the worst features of the current system, tariffed access charges, and introduce them the IXC-CMRS relationship.

Wireless competition has thrived under the current rules. It is hard to imagine that tariffed access charges would do anything to promote wireless competition or the public interest. Indeed, Voicestream has made no showing that tariffs are necessary to protect potential customers of wireless services from unjust or unreasonably discriminatory practices by wireless carriers. Absent such a showing, there can be no reason to extend permissive tariffing to wireless carriers.

#### **IV. Conclusion**

Based on initial comments, one thing is clear: the only sensible policy is one which paves the way to a unified intercarrier compensation regime to replace all existing forms of regulated intercarrier compensation. The Commission should adopt a further notice of proposed rulemaking. Therein the Commission should propose a definite timeline for resolution of all issues that stand in the way of the establishment of a unified

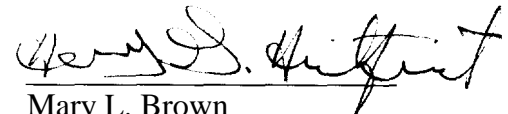
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<sup>18</sup> *See, e.g.*, Voicestream Comments at 15.

regime, including universal service and the forward-looking cost of call termination. The Commission should not engage in piecemeal reform of intercarrier compensation that will disproportionately benefit certain industry segments. Nor should the Commission prohibit the use of virtual NXX codes, nor make any changes to existing rules that allow competitive LECs to determine whether to establish more than a single POI in a **LATA**.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "Henry G. Hultquist", is written over a horizontal line.

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November 5, 2001

## Certificate of Service

I, Barbara Nowlin do hereby certify that copies of the foregoing Reply Comments of WorldCom, Inc. regarding the Matter of Developing a Unified Inter-carrier Compensation Regime have been distributed to the following this 5<sup>th</sup> day of November 2001.

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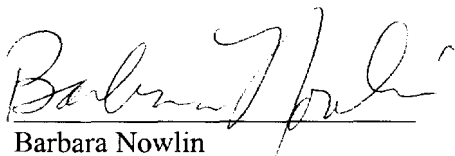
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